



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

999 18th STREET - SUITE 300
DENVER, COLORADO 80202-2466
<http://www.epa.gov/region08>

June 24, 2003

8ENF-L

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Robert Jones, President
Bob Jones Tire Corp.
4621 South 900 East
Salt Lake City, UT 84117

Re: Compliance Order, Docket No. **CAA-08-2003-0001**

Dear Mr. Jones:

Enclosed is a Compliance Order ("Order"), that the United States Environmental Protection Agency, Region 8 ("EPA") is issuing to you under the authority of section 113(a)(3)(B) of the Clean Air Act ("CAA"), 42 U.S.C. § 7413(a)(3)(B). In the Order, EPA finds you in violation of section 609(c) and (d) of the CAA, 42 U.S.C. § 7671h(c) and (d), and regulations set forth in 40 C.F.R. Part 82, Subpart B, pertaining to the servicing of motor vehicle air conditioners.

The Order requires that Bob Jones Tire Corp. immediately comply with all the requirements of sections 608(c) and 609(c) and (d) of the CAA, 42 U.S.C. §§ 7671g(c) and 7671h(c) and (d), and 40 C.F.R. §§ 82.34(a)(1) and (2) and 82.42(a).

Please be advised that the issuance of this Order does not preclude the initiation of any action authorized under law for failure to comply with the Order, including the assessment of an administrative penalty and the filing of civil or criminal actions in the U.S. District Court. Failure to comply with the requirements of the Order is a violation of the Order. Please also be advised that the issuance of this Order does not preclude the initiation of administrative penalty proceedings or civil or criminal actions in the U.S. District Court for the violations cited in the Order or for any other violations that Bob Jones Tire Corp. may have committed prior to or may commit after the issuance of the enclosed Order.



Printed on Recycled Paper

In accordance with section 113(a)(4) of the CAA, 42 U.S.C. § 7413(a)(4), the Order will not take effect until Bob Jones Tire Corp. has had an opportunity to confer with EPA concerning the findings set forth in the Order. As stated in the Order, the request for such a conference must be made no later than thirty (30) calendar days from the date of Bob Jones Tire Corp.'s receipt of the Order. A request for a conference must follow the procedures set forth in the Order.

Please review the Order and the other enclosed document carefully. If you have any questions, the most knowledgeable persons on my staff are Carol Smith, Environmental Engineer, (for technical issues) who can be reached at (303) 312-7815, and Sheldon Muller, Enforcement Attorney, (for legal issues) who can be reached at (303) 312-6916.

Sincerely,

SIGNED

Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

Enclosures:

1. Compliance Order
2. U.S. EPA Small Business Resources Information Sheet

cc: Richard Sprott, Utah Division of Air Quality



**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

IN THE MATTER OF:)	COMPLIANCE ORDER
)	[42 U.S.C. § 7413(a)(3)(B)]
Bob Jones Tire Corporation)	
4621 South 900 East)	
Salt Lake City, Utah, 84117)	Docket No. CAA-08-2003-0001
)	
)	
Respondent.)	
_____)	

I. STATUTORY AUTHORITY

1. This Compliance Order (“Order”) is issued pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency (“EPA”) by section 113(a)(3)(B) of the Clean Air Act (“CAA”), 42 U.S.C. § 7413(a)(3)(B), as amended on November 15, 1990, for violation of the “Stratospheric Ozone Protection” requirements of Subchapter VI, at section 609 of the CAA, 42 U.S.C. § 7671h, and the “Protection of Stratospheric Ozone” regulations found at 40 C.F.R. Part 82, Subpart B (Servicing of Motor Vehicle Air Conditioners). Carol Rushin, Assistant Regional Administrator, Office of Enforcement, Compliance, and Environmental Justice, U.S. Environmental Protection Agency (“EPA”), Region 8, has been duly authorized to issue this Order.

2. Consistent with section 113(a)(4) of the CAA, 42 U.S.C. § 7413(a)(4), a copy of this Order has been sent to the Utah Department of Environmental Quality’s Division of Air Quality.



Printed on Recycled Paper

II. FINDINGS

A. Respondent.

3. Respondent is Bob Jones Tire Corporation.

4. At all times relevant to this action, Respondent was a corporation organized under the laws of the State of Utah.

5. At all times relevant to this action, Respondent's business consisted primarily of the repairing and/or servicing of motor vehicles at one or more facilities, including at the facility that is the subject of this Complaint which is located at 4621 South 900 East, Salt Lake City, Utah 84117. Respondent received payment for the repairs and services it performed.

6. At all times relevant to this action, Respondent was a "person" within the meaning of section 302(e) of the CAA, 42 U.S.C. § 7602(e).

7. Mike Oliver, Chester Martinez, Bob Jenny, Terry Miller, and Ed Bowcott (hereinafter collectively referred to as the "Employees") were employed by Respondent during all or a portion of the time period from May 14, 2002 to August 14, 2002.

B. EPA Inspection.

8. On October 16, 2002, EPA Inspectors Brenda South and Cindy Reynolds conducted an inspection of Respondent's facility at 4621 South 900 East, Salt Lake City, Utah 84117.

9. During the October 16, 2002 inspection, Ms. South and Ms. Reynolds obtained documentation from Respondent showing that from May 14, 2002 to August 14, 2002, Respondent repaired and/or serviced twenty-nine (29) MVACs that utilized HFC-134a as



Printed on Recycled Paper

refrigerant. The 29 MVACs were contained in the following vehicles and repaired and/or serviced on the following dates and in conjunction with the following invoices:

Date(s) of Service	Invoice No.	Vehicle (Year, Make and Model)	Date(s) of Service	Invoice No.	Vehicle (Year, Make and Model)
5/14/02- 5/15/02	087590	1994 GMC Jimmy	7/01/02- 7/02/02	088612	1999 Chevrolet Suburban
5/17/02	087677	1999 Nissan Altima	7/01/02	088614	1996 Isuzu Trooper
5/18/02	087699	1996 Honda Accord	7/02/02	088629	1997 GMC Jimmy
5/20/02- 5/21/02	087740	1998 Chrysler Concord	7/02/02	088631	1999 Nissan Pathfinder
5/31/02	087944	1994 Jeep Grand Cherokee	7/09/02	088747	1994 Chevrolet Cavalier
6/03/02- 6/05/02	088026	1995 Mazda Protege	7/11/02	088808	1994 Plymouth Voyager
6/05/02	088055	1994 Dodge Caravan	7/15/02	088897	1997 Ford Explorer
6/08/02	088138	2000 Dodge Intrepid	7/15/02- 7/16/02	088904	1995 Chevrolet S-10 Blazer
6/13/02	088240	1994 Plymouth Voyager	7/18/02	088986	1997 Ford Explorer
6/13/02	088241	1998 Kia Sephia	8/02/02	089250	2001 Chevrolet Tahoe
6/18/02	088341	1995 Honda Civic	8/07/02- 8/09/02	089339	1996 Jeep Grand Cherokee
6/20/02	088399	1996 Dodge Caravan	8/12/02	089426	2000 Mazda 626
6/20/02- 6/21/02	088408	1995 Volkswagen Jetta	8/13/02	089455	1995 Mercury Villager
6/25/02- 6/29/02	088496	1994 Dodge Caravan	8/14/02	089489	1995 Jeep Cherokee
6/27/02	088549	1994 Jeep Cherokee			



Printed on Recycled Paper

10. The documentation referenced in Paragraph 9 of this Complaint shows that the repair and/or service performed on the 29 MVACs set forth in Paragraph 9 was service during which discharge or release of refrigerant from the MVACs to the atmosphere could reasonably have been expected to occur and included repairs which required some dismantling of the MVACs, the leak testing of the MVACs, and/or the charging (*i.e.*, “topping-off”) of the MVACs.

11. The documentation referenced in Paragraph 9 of this Complaint shows that the repair and/or service of the 29 MVACs set forth in Paragraph 9 was performed by one or more of the Employees on behalf of Respondent.

C. Servicing of Motor Vehicle Air Conditioners - Generally.

12. Title VI of the CAA sets out requirements and prohibitions related to Stratospheric Ozone Protection. Section 609 of the CAA, 42 U.S.C. § 7671h, is contained within Title VI and sets forth requirements and prohibitions regarding the servicing of motor vehicle air conditioners (“MVACs”). Section 609 is supported by regulations promulgated pursuant to the authorities set forth in that section.

D. Repairing and/or Servicing MVACs Without Approved Recycling Equipment.

13. Under section 609(c) of the CAA, 42 U.S.C. § 7671h(c), no person repairing or servicing motor vehicles for consideration may perform any service on a motor vehicle air conditioner (“MVAC”) involving the refrigerant for such air conditioner without properly using approved refrigerant recycling equipment. 40 C.F.R. § 82.34(a), in pertinent part, similarly provides: “No person repairing or servicing MVACs for consideration . . . may perform any



service involving the refrigerant for such MVAC . . . (1) Without properly using equipment approved pursuant to § 82.36.”

14. Under 40 C.F.R. § 82.32(h), “service involving refrigerant” means “any service during which discharge or release of refrigerant from the MVAC . . . to the atmosphere can reasonably be expected to occur . . . [and] includes any service in which an MVAC . . . is charged with refrigerant but no other service involving refrigerant is performed (*i.e.*, a ‘top-off’).”

15. The Preamble to the Final Rule, 40 C.F.R. Part 82, 57 Federal Register 31242, 31246 (July 14, 1992), provides:

The Agency stated in the proposal that the intent of the Act is to require recycling of refrigerant in motor vehicle air conditioners whenever service is being performed that may release refrigerant to the atmosphere. This includes service of motor vehicle air conditioners and service of other motor vehicle components that may require some dismantling of the motor vehicle air conditioning system. Servicing of motor vehicle air conditioners, therefore, includes repairs, leak testing, and “topping off” of air conditioning systems low on refrigerant, as well as any other repair which requires some dismantling of the air conditioner. Each of these operations involves a reasonable risk of releasing refrigerant to the atmosphere.

16. 40 C.F.R. § 82.32(f) defines “refrigerant” as “any class I or class II substance used in a motor vehicle air conditioner. Class I and class II substances are listed in part 82, subpart A, appendix A. Effective November 15, 1995, refrigerant shall also include any substitute substance.”

17. 40 C.F.R. Part 82, subpart A, appendix A lists CFC-12 as a Class I controlled substance. The Final Rule, 40 C.F.R. Parts 9 and 82, 59 Federal Register 13044, 13081 (March



18, 1994), states that HFC-134a is acceptable as a substitute for CFC-12 in retrofitted and new MVACs.

18. Respondent did not provide the Employees with refrigerant recycling equipment approved pursuant to 40 C.F.R. § 82.36 to use on behalf of Respondent in conjunction with the repair and/or service of the 29 MVACs referenced in Paragraph 9 of this Complaint.

19. In repairing and/or servicing the 29 MVACs referenced in Paragraph 9 of this Complaint, the Employees did not properly use refrigerant recycling equipment approved pursuant to 40 C.F.R. § 82.36.

20. Respondent, which repaired and/or serviced MVACs for consideration, violated section 609(c) of the CAA, 42 U.S.C. § 7671h(c), and 40 C.F.R. § 82.34(a)(1) by performing the repairs and/or services set forth in Paragraph 10 of this Complaint involving the refrigerant for the identified MVACs without properly using equipment approved pursuant to 40 C.F.R. § 82.36.

E. Repairing and/or Servicing MVACs Without Proper Training & Certification.

21. Under section 609(c) of the CAA, 42 U.S.C. § 7671h(c), no person repairing or servicing motor vehicles for consideration may perform any service on an MVAC involving the refrigerant for such air conditioner unless such person has been properly trained and certified. 40 C.F.R. § 82.34(a), in pertinent part, similarly provides: “No person repairing or servicing MVACs for consideration . . . may perform any service involving the refrigerant for such



MVAC . . . (2) Unless any such person repairing or servicing an MVAC has been properly trained and certified by a technician certification program approved by the Administrator pursuant to § 82.40.”

22. Under Section 609(b)(4) of the CAA, 42 U.S.C. § 7671h (b)(4), “properly trained and certified” means:

training and certification in the proper use of approved refrigerant recycling equipment for motor vehicle air conditioners in conformity with standards established by the Administrator and applicable to the performance of service on motor vehicle air conditioners. Such standards shall, at a minimum, be at least as stringent as specified, as of November 15, 1990, in SAE standard J-1989 under the certification program of the National Institute for Automotive Service Excellence (ASE) or under a similar program such as the training and certification program of the Mobile Air Conditioning Society (MACS).

23. During the times the repairs and/or services set forth in Paragraph 10 of this Complaint were carried out, the Employees were not properly trained and certified by a technician certification program approved by the Administrator pursuant to 40 C.F.R. § 82.40.

24. Respondent, which repaired and/or serviced MVACs for consideration, violated section 609(c) of the CAA, 42 U.S.C. § 7671h(c), and 40 C.F.R. § 82.34(a)(2) by performing the repairs and/or services set forth in Paragraph 10 of this Complaint involving the refrigerant for the identified MVACs without ensuring that the Employees had been properly trained and certified.

F. Certification of Approved Refrigerant Recycling Equipment and Training and Certification of Employees.



25. Section 609(d) of the CAA, 42 U.S.C. § 7671h(d), in pertinent part, provides:

(1) Effective 2 years after November 15, 1990, each person performing service on motor vehicle air conditioners for consideration shall certify to the Administrator either--

(A) that such person has acquired, and is properly using, approved refrigerant recycling equipment in service on motor vehicle air conditioners involving refrigerant and that each individual authorized by such person to perform such service is properly trained and certified; or

(B) that such person is performing such service at an entity which serviced fewer than 100 motor vehicle air conditioners in 1991.

(2) Effective January 1, 1993, each person who certified under paragraph (1)(B) shall submit a certification under paragraph (1)(A).

40 C.F.R. § 82.42(a), in pertinent part, similarly provides: “(1) No later than January 1, 1993, any person repairing or servicing motor vehicle air conditioners for consideration shall certify to the Administrator that such person has acquired, and is properly using, approved equipment and that each individual authorized to use the equipment is properly trained and certified.”

26. At all times relevant to this action, Respondent had not certified to the Administrator that it had acquired and was properly using approved refrigerant recycling equipment in service on MVACs involving refrigerant.

27. At all times relevant to this action, Respondent had not certified to the Administrator that the Employees were properly trained and certified to use approved refrigerant recycling equipment in performing service on MVACs involving refrigerant.



28. Respondent, which repaired and/or serviced MVACs for consideration, violated Section 609(d) of the CAA, 42 U.S.C. § 7671h(d), and 40 C.F.R. § 82.42(a) by failing to certify to the Administrator that it had acquired and was properly using approved refrigerant recycling equipment in service on MVACs involving refrigerant and that each individual authorized by Respondent to perform such service was properly trained and certified.

III. ORDER

29. Based upon the foregoing FINDINGS, and pursuant to the authority vested in the Administrator of the EPA by section 113(a)(3)(B) of the CAA, 42 U.S.C. § 7413(a)(3)(B), as properly delegated to the Assistant Regional Administrator of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8, it is hereby ORDERED:

30. Respondent shall comply with all the requirements of sections 608(c) and 609(c) and (d) of the CAA, 42 U.S.C. §§ 7671g(c) and 7671h(c) and (d), and 40 C.F.R. §§ 82.34(a)(1) and (2) and 82.42(a).

IV. ENFORCEMENT

31. Issuance of this Order does not preclude any other action by EPA to redress past or future violations of the CAA by Respondent, including the violations that are the subject of this Order, under any provision of law including either of the following:

- a. an administrative penalty complaint pursuant to section 113(d) of the CAA, 42 U.S.C. § 7413(d), for penalties of not more than \$27,500 per day of violation; or



Printed on Recycled Paper

b. a civil action pursuant to section 113(b) of the CAA, 42 U.S.C. § 7413(b), for injunctive relief, or civil penalties of not more than \$27,500 per day for each violation, or both.

32. Pursuant to section 113(a)(3) of the CAA, 42 U.S.C. § 7413(a)(3), failure to comply with this Order may lead to a civil action to obtain compliance or an action for civil or criminal penalties.

V. OPPORTUNITY FOR CONFERENCE

33. In accordance with section 113(a)(4) of the CAA, 42 U.S.C. § 7413(a)(4), EPA hereby offers the Respondent an opportunity for a conference to discuss the Order. The request for such a conference must be made no later than thirty (30) calendar days from the date Respondent receives this Order. If Respondent wishes to make arrangements for a conference, please contact:

Sheldon H. Muller, Enforcement Attorney (8ENF-L)
U.S. EPA, Region 8
999 18th Street, Suite 300
Denver, Colorado 80202-2466
Telephone: (303) 312-6916

By offering the opportunity for a conference or participating in one, EPA does not waive or limit its right to any remedy available under the CAA.

VI. EFFECTIVE DATE

34. This Order shall become effective thirty (30) calendar days after Respondent's receipt of the Order, unless Respondent requests an opportunity to confer with EPA, in which



Printed on Recycled Paper

case the Order shall become effective on the third business day after the conference unless EPA issues a modification to the Order.

Date: 6/23/03

SIGNED

Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance,
and Environmental Justice
U.S. EPA, Region VIII
999 18th Street, Suite 300
Denver, Colorado 80202-2466

IF YOU WOULD LIKE COPIES OF THE ATTACHMENTS, PLEASE CONTACT THE REGIONAL HEARING CLERK.

THIS DOCUMENT WAS FILED IN THE RHC'S OFFICE ON JUNE 24, 2003.

